

REMARKS

Applicants submit that entry of this amendment would place the application in condition for allowance. No new issues are raised by the amendments, and thus should not require additional searching.

Status of the Claims

Claims 1 and 11-21 are pending, with claims 1 and 12 being independent. Claims 1, 11, and 17-20 are canceled herein without prejudice or disclaimer. Claim 12 is amended herein. Support for the claim amendment can be found throughout the specification and claims as filed, such as at claims 17-18 as filed. As such, no new matter has been added. Applicants reserve the right to file at least one continuation directed to any subject matter canceled herein.

Applicants respectfully request the Examiner to reconsider and withdraw the outstanding rejections in view of the foregoing amendments and the following remarks.

Rejections under obviousness-type double patenting

Claims 1 and 11-16 stand provisionally rejected pursuant to non-statutory obviousness-type double patenting, as purportedly unpatentable over claims 1, 4-7 and 9 of co-pending application No. 10/561,844. Claims 1 and 11 are canceled herein without prejudice or disclaimer. With regard to claims 12-16 of the present application, Applicants defer acting on this rejection under allowable subject matter is determined.

Claims 1 and 11-21 stand provisionally rejected pursuant to non-statutory obviousness-type double patenting, as purportedly unpatentable over claims 6 and 14-22 of co-pending application No. 11/344,212. Claims 1, 11 and 17-20 are canceled herein without prejudice or disclaimer. With regard to claims 12-16 and 21 of the present application, Applicants defer acting on this rejection under allowable subject matter is determined.

Claims 1 and 11-21 stand provisionally rejected pursuant to non-statutory obviousness-type double patenting, as purportedly unpatentable over claims 1-6 and 9-18 of co-pending application No. 10/532,114. Claims 1, 11 and 17-20 are canceled herein without prejudice or disclaimer. With regard to claims 12-16 and 21 of the present application, Applicants defer acting on this rejection under allowable subject matter is determined.

Claims 1 and 11-21 stand provisionally rejected pursuant to non-statutory obviousness-type double patenting, as purportedly unpatentable over claims 2-10 and 14-25 of U.S. Patent No. 7,034,038. Claims 1, 11 and 17-20 are canceled herein without prejudice or disclaimer. With regard to claims 12-16 and 21 of the present application, Applicants will consider filing a Terminal Disclaimer as appropriate once allowable subject matter is determined in the present application.

Rejections under 35 U.S.C. § 102

Claims 1 and 11-21 stand rejected under 35 U.S.C. § 102(e) as allegedly unpatentable over Barth (U.S. Publication No. 2006/0024238). Claims 1, 11, and

17-20 are canceled herein without prejudice or disclaimer. With regard to claims 12-16 and 21, this rejection is respectfully traversed.

Present independent claim 12 is directed to a method for the treatment of nocturnal gastroesophageal reflux and Barrett's oesphagus comprising administering a medicament comprising tenatoprazole. Barth does not disclose the administration of tenatoprazole for the treatment of nocturnal gastroesophageal reflux and/or Barrett's oesophagus.

Applicants note that the Office has not yet acknowledged Applicants' claim for priority. The present U.S. Application claims priority to French Application No. 0213113 filed October 21, 2002, by way of International Application No. PCT/FR03/03122, filed on October 21, 2003.

Barth is a continuation application of International Application No. PCT/US03/15308, filed on May 16, 2003, which claims priority to U.S. Provisional No. 60/449,838, filed February 27, 2003; U.S. Provisional No. 60/404,154, filed August 19, 2002; and U.S. Provisional No. 60/380,855, filed May 17, 2002.

Applicants note, upon review of the '154 and '855 provisional applications, that neither application discloses tenatoprazole. For example, the '855 application relates to a method for treating and preventing gastrointestinal disorders by administering at least two proton pump inhibitors and an optional additional compound, where the first proton pump inhibitor is rabeprazole and the second is omeprazole, lansoprazole, esomeprazole, or pantoprazole.

Accordingly, the two provisional applications which were filed in 2002 do not disclose the subject matter of the claims of the present application.

Applicants request that the rejection under 35 U.S.C. § 102(e) be withdrawn.

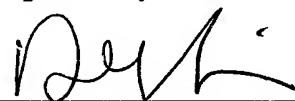
CONCLUSION

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 104006.B130120).

Respectfully submitted,

September 29, 2008



Deborah H. Yellin
Registration No. 45,904

CROWELL & MORING, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
DHY/hk